

Appln No. 10/660,453
Amdt date July 13, 2009
Reply to Office action of February 13, 2009

REMARKS/ARGUMENTS

Claims 1-2, 4-12 and 14-24 remain pending in the present application, of which claims 1 and 12 are independent. Claims 1-2, 4-5, 12, and 14-15 have been amended herein. Claims 6-11 were withdrawn due to an earlier restriction requirement. Claims 16-24 are new. Applicants respectfully request reconsideration and allowance of claims 1-2, 4-5, 12, and 14-24.

As the November 15, 2008 Supplemental Amendment was not entered by the Examiner, Applicants have maintained the previous status of the pending claims, including indications of additions and deletions made in the November 15, 2008 Supplemental Amendment. Please note that additional amendments have been made to the claims presented in the November 15, 2008 Supplemental Amendment to better place the claims in condition for allowance.

I. Consideration of Reference JP 49-11836

The Examiner did not consider reference JP 49-11836 to Shu Koujyu from Applicants' November 15, 2008 Information Disclosure Statement, because the Examiner asserted that a concise explanation of the relevance was not presented.

The JP 49-11836 reference was cited in an August 26, 2008 Office action by the Japan Patent Office for a counterpart foreign application. Accordingly, pursuant to MPEP § 609.04(a), Applicants attach herewith an English-language version of the August 26, 2008 Office action from the Japan Patent Office which indicates the degree of relevance found by the foreign office. Copies of reference JP 49-11836 and Form PTO/SB/08A/B, submitted on November 14, 2008, and available on the PAIR database, are also attached herewith for the Examiner's convenience. Applicants respectfully request the Examiner consider the JP 49-11836 reference prior to the next communication from the Patent Office, and provide a signed and initialed copy of Form PTO/SB/08A/B indicating the same along with the next communication.

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II. Rejection of Claims Under 35 U.S.C. § 102(b) and 35 U.S.C. § 103(a)

Claims 1, 2, and 12 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 4,932,975 to Main et al. (“Main”) on page 3 of the Office action. Claims 4, 5, 14, and 15 were rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Main on page 3 of the Office action.

A. Claims 1-2, 4-5, and 16-24

Claim 1 was rejected under 35 U.S.C. 102(b) as allegedly being anticipated Main.

Independent claim 1, as amended, specifies in relevant part, “a tube having a first end, a second end and an outer wall, and having a longitudinal axis extending from the first end to the second end and a bore extending along the longitudinal axis through the tube, wherein the outer wall of the tube has a plurality of openings extending transversely through the outer wall to the bore, and wherein a pattern of the plurality of openings is repeated in the outer wall along the longitudinal direction.” (emphasis added).

In rejecting claim 1, the Examiner asserts that Main discloses, “a tubular section 22 comprising a flexible outer wall (column 3, lines 60-65) having an opening at inlet stem 23 and openings for receiving base plate sections at either end (column 4, lines 3-8; Figure 1).” Office action, p. 3.

However, referring to FIGs. 1-3 of Main, Main only discloses a single inlet stem 23 extending transversely through bellows 22 of Main (which serves as an outer wall in Main) to an interior of Main (which would be interpreted as a bore in Main). The Examiner accordingly refers to this single inlet stem 23 as an opening in Main. The inlet stem 23 of Main is the only opening disclosed in Main which extends “transversely through the outer wall to the bore.” Main does not disclose any additional such openings, and therefore does not disclose, “wherein the outer wall of the tube has a plurality of openings extending transversely through the outer wall to the bore,” as specified in amended claim 1. (emphasis added).

To anticipate a claim, the reference must teach every element of every claim. Therefore, since Main does not disclose all the elements and limitations of claim 1, a 35 U.S.C. § 102(b)

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rejection is not proper. Accordingly, Applicants request that the rejection of claim 1 be withdrawn, and that claim 1 be allowed.

Claims 2 and 4-5 depend, directly or indirectly, from claim 1, and each incorporates all the terms and limitations of claim 1, in addition to other limitations, which together further patentably distinguish them over Main. Accordingly, Applicants request that the rejection of claims 2 and 4-5 be withdrawn, and that these claims be allowed. Furthermore, as new claims 16-24 also depend from claim 1, and incorporate all the terms and limitations of claim 1, which are patentably distinguishable over Main, Applicants also request that claims 16-24 be allowed.

B. Claims 12 and 14-15

Claim 12 was rejected under 35 U.S.C. 102(b) as allegedly being anticipated by Main.

Independent claim 12, as amended, specifies in relevant part, “a tube having a first end and a second end, a longitudinal axis extending from the first end to the second end, and a bore extending along the longitudinal axis through the tube, wherein a plurality of openings extend transversely through the tube to the bore, and wherein a pattern of the plurality of openings is repeated in the tube along the longitudinal direction.” (emphasis added).

Therefore, regarding claim 12, as amended, similarly as discussed in reference to amended claim 1 above, Main does not disclose at least, “wherein a plurality of openings extend transversely through the tube to the bore.” Accordingly, Applicants request that the rejection of claim 12 be withdrawn, and that claim 12 be allowed.

Claims 14 and 15 depend from claim 12, and both incorporate all the terms and limitations of claim 12, in addition to other limitations, which together further patentably distinguish them over Main. Accordingly, Applicants request that the rejection of claims 14 and 15 be withdrawn, and that these claims be allowed.

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III. Concluding Remarks

In view of the foregoing remarks and arguments, Applicant earnestly solicits a timely issuance of a Notice of Allowance as pertains to claims 1-2, 4-5, 12, and 14-24. If there are any remaining issues that can be addressed over the telephone, the Examiner is cordially invited to call Applicant's attorney at the number listed below.

Respectfully submitted,
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